

§ 115.101

§ 115.101 Program administration.

(a) *Authority and responsibility.* The Secretary has delegated the authority and responsibility for administering this part to the Assistant Secretary.

(b) *Delegation of Authority.* The Assistant Secretary delegates the authority and responsibility for administering this part to each Director of a Fair Housing Enforcement Center. However, with respect to the duties and responsibilities for administering subpart B of this part, the Assistant Secretary retains the right to make final decisions concerning the granting and maintenance of substantial equivalency certification and interim certification.

§ 115.102 Public notices.

(a) Periodically, the Assistant Secretary will publish the following public notices in the FEDERAL REGISTER:

(1) A list of all agencies which have interim certification or certification; and

(2) A list of agencies to which a notice of denial of interim certification has been issued or for which withdrawal of certification is being proposed.

(b) The Assistant Secretary will publish in the FEDERAL REGISTER a notice soliciting public comment before granting certification to a State or local agency. The notice will invite the public to comment on the relevant State and local laws, as well as on the performance of the agency in enforcing its law. All comments will be considered before a final decision on certification is made.

Subpart B—Certification of Substantially Equivalent Agencies

§ 115.200 Purpose.

This subpart implements section 810(f) of the Fair Housing Act. The purpose of this subpart is to set forth:

(a) The basis for agency interim certification and certification;

(b) The procedure by which a determination to certify is made by the Assistant Secretary;

(c) The basis and procedures for denial of interim certification;

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(d) The basis and procedures for withdrawal of certification;

(e) The consequences of certification;

(f) The basis and procedures for suspension of interim certification or certification; and

(g) The funding criteria for interim certified and certified agencies.

§ 115.201 Basis of determination.

A determination to certify an agency as substantially equivalent involves a two-phase procedure. The determination requires examination and an affirmative conclusion by the Assistant Secretary on two separate inquiries:

(a) Whether the law, administered by the agency, on its face, satisfies the criteria set forth in section 810(f)(3)(A) of the Act; and

(b) Whether the current practices and past performance of the agency demonstrate that, in operation, the law in fact provides rights and remedies which are substantially equivalent to those provided in the Act.

§ 115.202 Criteria for adequacy of law.

(a) In order for a determination to be made that a State or local fair housing agency administers a law which, on its face, provides rights and remedies for alleged discriminatory housing practices that are substantially equivalent to those provided in the Act, the law or ordinance must:

(1) Provide for an administrative enforcement body to receive and process complaints and provide that:

(i) Complaints must be in writing;

(ii) Upon the filing of a complaint the agency shall serve notice upon the complainant acknowledging the filing and advising the complainant of the time limits and choice of forums provided under the law;

(iii) Upon the filing of a complaint the agency shall promptly serve notice on the respondent or person charged with the commission of a discriminatory housing practice advising of his or her procedural rights and obligations under the law or ordinance together with a copy of the complaint;

(iv) A respondent may file an answer to a complaint.